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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,404	01/27/2004	Karl David McAllister	US20010207	3362
173	7590	01/06/2009	EXAMINER	
WHIRLPOOL PATENTS COMPANY - MD 0750			PERRIN, JOSEPH L	
500 RENAISSANCE DRIVE - SUITE 102			ART UNIT	PAPER NUMBER
ST. JOSEPH, MI 49085			1792	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

***Election/Restrictions***

The claims as amended effectively canceling (amending elected claims to read on non-elected claims) all claims drawn to the elected invention and present only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the claims as amended read on fixed oscillating cycles and no longer read on varying and random cycles as originally elected in the response filed 04 June 2007. Moreover, applicant's arguments are not persuasive regarding the new matter because applicant points to broad and general examples of the specification which do not reasonably convey to one skilled in the art that applicant had possession of the claimed invention at time of filing of the specified claim limitations. Simply stated, pointing to a genus to support undisclosed species, basically as in the instant case, is considered new matter. Thus, the newly added language is still considered new matter. Applicant is urged to amend the claims to read on the elected invention in the response filed 04 June 2007 and remove the new matter in conformance with 35 USC § 112, first paragraph.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph L. Perrin/  
Joseph L. Perrin, Ph.D.  
Primary Examiner  
Art Unit 1792

JLP